



Scheme in relation to Non EEA Family Members of UK Citizens intending to reside in the State

1. INTRODUCTION

1.1 EU Free Movement provisions will no longer apply to UK citizens from the end of the Transition Period under the Withdrawal Agreement on 31 December 2020. Accordingly, it is necessary to provide for arrangements to allow UK citizens who wish to reside here from 1 January 2021 to be joined by family members who are non-EEA nationals. The Immigration Scheme set out hereunder provides, pursuant to the executive power of the Minister and in the context of a statement of national immigration policy, for a preclearance procedure to facilitate entry to the State for specified categories of non-EEA national family members of UK citizens. The Scheme applies to both visa and non-visa required non-EEA nationals. This Scheme comes into operation on 1 January 2021 and covers UK citizens who arrive in the State after 31 December 2020. In respect of this Scheme,

- ‘Applicant’ refers to the specified non-EEA national family member(s) who submit(s) an application seeking permission to join their UK sponsor in the State.
- ‘Department’ refers to the Immigration Service Delivery Function of the Department of Justice.
- ‘Minister’ refers to the Minister for Justice.
- ‘Sponsor’ refers to the UK citizen who sponsors their specified non-EEA national family member(s) to reside in the State.
- ‘Temporary Permission’ means any permission granted under this Scheme which may be renewed upon expiry, provided that the conditions under which the initial permission was granted continue to be met.

1.2 The following specified categories of non-EEA family members of a UK citizen may apply under this Scheme :

- 1. Category 1: Spouse, civil partner or de facto partner**
- 2. Category 2: Dependent child of sponsor: of spouse; of civil partner; or of de facto partner.**
- 3. Category 3: Elderly dependent parents of sponsor; of spouse; of civil partner; or of de facto partner.**

Details of the eligibility requirements of each of the three categories above are set out at sections 6 to 8 of this Scheme document.



- 1.3** All non-EEA nationals (both visa required and non-visa required) who are resident outside the State and are seeking to join their UK citizen family member in the State must seek prior sanction from the Department before travelling here.

- 1.4** An applicant must be ordinarily resident outside the State when making an application to join their sponsor for a period longer than 90 days. Proof of ordinary residence outside the State must be submitted as part of the application process and the applicant must remain outside the State while their application is being processed. An applicant will not be permitted entry to the State by an Immigration Officer at the frontier of the State for the purpose of joining his/her UK citizen family member for longer than 90 days, unless he/she can produce a Preclearance Approval letter or a visa issued by the Department.



2. BACKGROUND

- 2.1** The State does not participate in the EU Directive on Family Reunification¹. Family Reunification for non-EEA nationals, other than those in the international protection process or pursuant to EU Free Movement law, is solely a matter of Irish national policy and subject to the jurisdiction of the Irish courts.
- 2.2** At present, the Department considers applications from specified non-EEA national family members of (a) Irish nationals or of (b) non-EEA nationals under its Policy Document on non-EEA Family Reunification (‘the 2016 Policy Document’)². That 2016 Policy Document sets out how the Minister for Justice may apply his or her discretion in individual cases having regard to a range of indicative criteria in relation to the main categories of family relationships. This Scheme supersedes that 2016 Policy Document insofar as Non-EEA Family Members of UK Citizens are concerned.
- 2.3** Under the Scheme as set out in this document, there is no automatic entitlement to family reunification. However, access will be facilitated as far as possible based on the status of the sponsor. This Scheme has been developed to set out the overall parameters that apply following the UK’s departure from the EU on 31 December 2020 in light of the immigration status of UK citizens.
- 2.4** UK citizens will continue to enjoy arrangements under the Common Travel Area including the freedom to live in the State after the UK exits the EU. However, in line with the 2016 Policy Document, UK citizens have no automatic entitlement to have a non-EEA national family member reside with them in the State. A UK citizen may, however, ‘sponsor’ an application for permission for their specified non-EEA national family member(s) to reside with them in the State. This document sets out how this can be done.
- 2.5** This Scheme has been established pursuant to the Executive power of the Minister for Justice. It provides guidance to assist applicants and decision-makers in relation to how the Minister’s discretion may apply to the operation of the Scheme. The policy set out in this document does not create or acknowledge any new rights to family settlement or reunification. Applications will be facilitated where applicants meet the criteria of this Scheme. Each case will be considered on its merits.

¹ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

² Policy Document on Non – EEA Family Reunification, Irish Naturalisation and Immigration Service, Department of Justice and Equality, (December 2016)



3. WHO CAN APPLY UNDER THIS SCHEME?

- 3.1** Those entitled to make an application under this scheme are set out at section 1.2. Economic considerations play an important part in decision-making in this immigration Scheme. A decision in relation to the UK citizen's ability to sponsor a specified non-EEA family member seeking residence in the State will depend on a range of considerations. In particular, the following will be considered (see also section 11.1).
- conduct of the sponsor / applicant,
 - whether the applicant has come to the adverse attention of An Garda Síochána or the immigration authorities,
 - capacity of the sponsor to support the family member financially for the duration of their proposed stay in the State,
 - closeness and genuineness of the relationship between the sponsor and non-EEA national, and
 - the overall immigration history of the non-EEA national.
- 3.2** The onus of proof as to the nature and genuineness of the family relationship is on both the sponsor and the applicant. In facilitating family reunification, due regard will also be had to the decisions which the family itself has made. For example, if the family has elected to separate for many years it does not follow that the State is obliged to facilitate its reconstitution in the State.
- 3.3** Applicants under this Scheme who require a visa to travel to the State must apply for a long stay ("join family") entry visa. An application will not be accepted from a person who has come to the State on a visitor visa and then seeks leave to remain. The correct visa must be obtained **before** travel to the State in all circumstances. Applicants under this Scheme who do **not** require a visa to travel to the State, must apply for preclearance. An application will not be accepted from a person who has come to the State as a visitor and then seeks leave to remain. A preclearance letter of approval must be obtained before travel to the State in all circumstances.
- 3.4** Any entitlement to residence obtained through this Scheme as a result of fraud, the submission of false information, misrepresentation or abuse of rights (including by way of marriage or relationship of convenience) shall be forfeit and no immigration benefit may be accrued from time spent in the State on this basis.
- 3.5** Where an application is made on a fraudulent basis or where false information is submitted, the Minister may refuse to accept a further application from the person concerned for a specified period.



4. DETAILED GUIDELINES

Qualified Sponsor

General

- 4.1 As stated at section 2.4, in line with the 2016 Policy Document, UK citizens have no automatic entitlement to have a non-EEA national family member reside with them in the State. However, a UK citizen may sponsor such an application for such a permission.
- 4.2 There are no minimum Irish residency requirements for UK citizens seeking to sponsor a specified non-EEA national family member. The sponsor assumes responsibility for the family member(s) they are seeking to bring to reside in the State. The application under this Scheme is, therefore, a joint undertaking between the sponsor and the adult family members seeking to apply under this Scheme. The sponsor may make the application in the case of a dependent child under 18 years of age.
- 4.3 Eligibility to sponsor an application does not confer an automatic entitlement to obtain an immigration permission for the non-EEA national family member. The Department must consider that there is no undue burden placed on the Exchequer by family members seeking to reside in the State.

Financial Matters

- 4.4 The adequacy of the financial resources of the sponsor are an important condition of this Scheme. In order to sponsor a specified non-EEA national family member, a UK citizen must not have been totally or predominantly reliant on social protection benefits in the State or to equivalent benefits in another State for a continuous period of at least 2 years prior to the application.
- 4.5 In addition, the sponsor must have earned a gross income in each of the 3 previous years in excess of that applied by the Department of Social Protection (DSP) in assessing eligibility for Working Family Payment (WFP). The WFP does not apply in the case of a married couple, civil partner / de facto partnership where there are no children and consequently a minimum level of assessable income for couples without children is €20,000 per annum, over and above any entitlement to State benefits.
- 4.6 A sponsor who wishes to reside with their dependent children in the State requires the net assessable income per week for their family size as set out by the Department of Social Protection (DSP) in assessing eligibility for the Working Family Payment, as published on that Department's website. The sponsor should comply with those limits including with respect to any changes to the WFP as published at (<http://www.welfare.ie/en/Pages/Working-Family-Payment-Op.aspx>.)



For illustrative purposes, and noting that they are subject to continual change, the limits are set out below:³

Family Size	Weekly Family Income Limit	Annual Family Income Limit
1 child	€521.00	€27,092.00
2 children	€622.00	€32,344.00
3 children	€723.00	€37,596.00
4 children	€834.00	€43,368.00
5 children	€960.00	€49,920.00
6 children	€1,076.00	€55,952.00
7 children	€1,212.00	€63,024.00
8 children	€1,308.00	€68,016.00

- 4.7** It should be noted that evidence of having maintained a family member in a country that has a comparatively low level of per capita income is not of itself an indicator of the capacity of the sponsor to provide for the family member if that person is permitted to reside in the State in circumstances where living costs are higher in this jurisdiction.
- 4.8** The expectation is that this minimum level of income will be maintained for the duration of any permission granted under this Scheme and that the non-EEA national family member(s) will not become an unreasonable burden on the State. Where such income levels are not maintained, permission may not be renewed under the Scheme.
- 4.9** In this regard, at the date of application the sponsor is also required to show that he/she is capable of earning a sufficient level of income to support his/her dependent family members for the duration of their proposed residence in the State. Under this Scheme, the applicant and sponsor must provide evidence of expected earnings through employment, self-employment etc.
- 4.10** Declared and verified savings by the sponsor and/or the applicant may be taken into account in assessing cases that do not meet the income thresholds. The Department may annualise the savings as income spread over a 5-10 year period. Alternatively, a nominal income may be determined based on the amounts involved.
- 4.11** The onus is on the applicant to satisfy the Minister as to the level of earnings and to provide documentary evidence if requested. The Department may also consult with the DSP, the Revenue Commissioners or relevant competent authorities in other jurisdictions as set out in its data protection statement.
- 4.12 Health Insurance:** In addition, applicants are required to hold private medical insurance from a company authorised by the Health Insurance Authority (HIA) for the duration of their time in the State. The sponsor may include the applicant in their group insurance scheme so long as this insurance plan covers the applicant from the date of entry into the State at a level which provides for private healthcare for any period of hospitalisation in a private hospital.

³ June 2019.



- 4.13 Police clearance certificate:** An applicant must provide a police clearance certificate or equivalent, not more than 6 months old for each country he/she has resided in within the past five years.
- 4.14** A sponsor who is joined by a spouse, civil partner or a de facto partner in the State will, in the event of the termination of the marriage or partnership (by legal separation, divorce or on termination of de facto partnership), be ineligible to be joined by a further non-EEA national spouse or partner until a minimum of 7 years have elapsed from the date of the termination of the previous spousal relationship through legal separation / divorce/ or the termination of the de facto partner relationship. This condition also applies to the non-EEA applicant seeking to be joined in the State by a subsequent non-EEA national spouse / civil partner or de facto partner in such circumstances..
- 4.15** In a situation where the non-EEA spouse/ partner dies, the sponsor may make a further application.
- 4.16** The situation may also arise where a prospective sponsor remains legally married to one person while in a de facto relationship with another. In general, the expectation is that the parties would have obtained a divorce / legal separation. In addition, the sponsor and applicant are required to provide documentary evidence of legal separation / death certificate, as appropriate. The qualification period for the de facto partner commences not from the initiation of the new relationship but from the date of the evidence of separation (e.g. documentation attesting legal separation / divorce / annulment) as appropriate

5. ELIGIBLE FAMILY MEMBERS

- 5.1** The specified categories of non-EEA family members of a UK citizen who may apply under this Scheme are outlined at paragraph 1.2. This Scheme does not apply to any other family members of the sponsor or applicant. Such persons will be required to apply in their own right under the various immigration pathways available, for example as a student, or on an employment permit holder etc.
- 5.2** In considering applications under this Scheme from specified non-EEA national family members, the Minister must establish at the outset that there is a genuine family relationship in existence. The Minister must also establish, in as far as possible, that there is no threat to public policy, public security or public health.
- 5.3** The Minister must also ensure family reunification arrangements are not abused, and that there is no undue burden on the public purse. The Minister must also be vigilant against cases of trafficking and smuggling and ensure that the consent of all persons involved is freely given. In the case of children, the Minister will seek to establish that full parental consent to the child coming to the State or that the appropriate legal custodial arrangements, as appropriate, are in place. For further information on same, please see Annex I below.





6– 8. ELIGIBILITY REQUIREMENTS

In relation to eligibility requirements under this Scheme, there are a number of categories covered as follows:

6. Category 1

Eligibility requirement for spouse, civil partner or de facto partner

- 6.1** The spouse, civil partner or de facto partner must be at least 18 years of age at the time of his / her application for family reunification.
- 6.2** A general principle that applies to immigration related decision-making is that marital relationships or those involving civil partnerships must be monogamous, freely entered into by both parties, lawfully conducted and recognised under Irish law. The marriage/partnership must also be capable of recognition under Irish law for other purposes outside of the immigration system.
- 6.3** Cases involving de facto relationships must be exclusive for the full duration of the qualifying period. Prior to the application under this Scheme, de facto partners must have cohabited in a relationship akin to marriage for a minimum period of two years prior to the application for family reunification.
- 6.4** For marriage or civil partnership, no minimum duration of marriage/civil partnership is required.
- 6.5** It should be noted that a commitment is required from both parties that they will reside together permanently in the State as spouses, civil partner or de facto partners immediately following the outcome of a successful application under this Scheme or as soon as circumstances allow. A declaration to this effect forms part of the application process.
- 6.6** Information relating to proxy marriages and polygamous marriages can be found in the 2016 Policy Document:
<http://www.inis.gov.ie/en/INIS/Pages/immigration-policy-family-reunification>
- 6.7** For immigration purposes, a person may be considered the de facto partner, opposite or same sex partner, of another person if:
- they have a mutual commitment to a shared life to the exclusion of all others akin to a marriage or civil partnership in practice though not in law,
 - the relationship between them is genuine and continuing,
 - they live together or do not live separately and apart on a permanent basis, for two years prior to the application.



- they are not related by family.

6.8 The applicant must be in a position to provide evidence of a genuine, long-term, durable relationship.

Grant of permission as a spouse, civil partner or de facto partner

6.9 In the case of a successful application under this Scheme, initial permission will be granted for a 12-month period on Stamp 4D conditions. Permissions to reside are regarded as temporary but may be renewed after the first year, on a Stamp 4D basis, for a further 2- year period and thereafter on a 3-year basis. This is provided that, on each renewal, the conditions under which the initial permission was granted continue to be met. Holders of this permission are permitted to seek employment without the need to obtain an employment permit from the Department of Business, Enterprise and Innovation.

6.10 It should be noted that the granting of temporary permission to reside in the State does not confer any entitlement or legitimate expectation on any other person, whether related to the applicant or not, to enter or remain in the State.

7. Category 2

Eligibility requirement for dependent child of sponsor or dependent child of spouse, civil partner or de facto partner

Child under age 18 years

7.1 For the purposes of this Scheme, a minor (i.e. under 18 years of age) living with its parents will be automatically assumed to be their dependent. The dependent child must be:

- the direct descendant of the sponsor or of his/her spouse, civil partner or de facto partner, or
- a legally adopted child of the sponsor or of his/her spouse, civil partner or de facto partner.

7.2 Adopted children will be considered in the same way as biological children in family reunification cases. In relation to an adopted child, additional key considerations include whether:

- The adoption has been carried out in the State or is recognised under Irish law,
- There has been a genuine and complete transfer of parental responsibility, with emotional and financial support now provided by the adoptive parent(s),
- The adopted child has the same rights as any other child of the adoptive parent(s),



- The child is one in respect of whom a guardianship or other equivalent legal order has been made in compliance with the relevant jurisdiction in which the order was made.

- 7.3 In all cases, where one parent has sole custody, a Court Order bestowing custody of the child concerned must be provided.
- 7.4 Stepchildren will be treated as part of the immediate family when it is established that they are full-time members of the household of the sponsor and continue to reside with the sponsor at the time the application is made. Consent from the other biological parent is required in shared/joint custody arrangements. The child's presence in the State gives no rights to visit or reside in the State to the other parent.
- 7.5 It should be noted that this arrangement does not include a child cared for by the sponsor, spouse, civil or de facto partner by virtue of an informal fostering/caring arrangement. It should also be noted that while they are required to obtain a visa or preclearance letter before travelling to the State, minor children under the age of 16 are not required to register the immigration permission they are granted.
- 7.6 The onus will be on the sponsor / applicant to satisfy the immigration authorities that the familial relationship is as claimed. This is particularly important where children are involved. In certain cases where reasonable doubt exists, the parties may be asked to provide DNA evidence in support of the claimed relationship. Guidelines regarding DNA evidence and the circumstances in which it might be used are set out in the Annex II.

Grant of permission as a child under 18 years

- 7.7 For those children over 16 years of age who are required to register their permission, such initial permission is granted for a 12-month period on Stamp 3 conditions. Permissions to reside are regarded as temporary but may be renewed after the first year, on a Stamp 3 basis, for a further 2- year period and thereafter on a 3-year basis. This is provided that, on each renewal, the conditions under which the initial permission was granted continue to be met. Assuming the circumstances remain the same, a person who reaches the age of 18 will be entitled to Stamp 4D, upon application.
- 7.8 The granting of temporary permission does not confer any entitlement or legitimate expectation on any other person, whether related to the applicant or not, to enter or remain in the State.



Dependency of person aged 18 years or over

7.9 This section refers to a person 18 years of age or over who:

- is the direct descendant of the sponsor or of his/her spouse, civil partner or de facto partner,
- was adopted by the sponsor or by his/her spouse, civil partner or de facto partner, or
- in respect of whom a guardianship or other equivalent legal order has been made in compliance with the relevant jurisdiction in which the order was made.

7.10 Adult dependent applicants who claim dependency are not persons of independent means and rely on the sponsor and/or the sponsor's spouse, civil partner or de facto partner.

7.11 For the purpose of this Scheme 'dependency' is demonstrated where the applicant is supported financially by the sponsor and/or the sponsor's spouse, civil partner or de facto partner on a continuous basis. The dependency must be pre-existing, and sustained prior to the making of the application for family reunification. Relevant financial, medical or other documentary evidence must be supplied in support of the dependency. For example, the sponsor and the applicant must provide information and documentary evidence to show that:

- the applicant is in full-time education in their country of origin or current country of residence and intends to continue in full time education in the State, he/she is under 23 years of age, and needs the financial support of the sponsor and/or the spouse, civil partner or de facto partner of the sponsor,
- where the applicant is not in full time education in the State, he/she is over the age of 18 and is dependent on the care of the parent sponsor, directly or indirectly, due to a serious medical condition that makes independent life impossible,
- having regard to health, financial or social conditions, the applicant could not meet his/her essential living needs (in whole or in part) without the financial or other material support of the sponsor and/or the spouse, civil partner or de facto partner of the sponsor,
- such support is being provided to the applicant by the sponsor and/or the spouse, civil partner or de facto partner of the sponsor, and
- the need for such support existed in the applicant's country of origin or his / her country of residence immediately prior to coming to the State.

7.12 Applications that involve a claim of dependency or exceptional circumstances, as provided for in [section 7.10](#), will be assessed in light of all relevant factors on a case-by-case basis. This will include the existence of other family members, particularly in the applicant's country of origin or current country of residence who could, or should, provide alternative support to the applicant.



7.12 The Minister will seek to be satisfied that the family dependency has not been constructed as a means of facilitating the immigration of the applicant.

Grant of Permission as dependent person who is 18 years of age or over

7.13 It should be noted that initial permission is granted for a 12-month period on Stamp 4D conditions. Permissions to reside are regarded as temporary but may be renewed after the first year, on a Stamp 4D basis, for a further 2- year period and thereafter on a 3- year basis. This is provided that on each renewal, the conditions under which the initial permission was granted continue to be met.

7.14 The granting of temporary permission does not confer any entitlement or legitimate expectation on any other person, whether related to the applicant or not, to enter or remain in the State.

8. Category 3

Eligibility requirement for elderly dependent parents of the sponsor or of the spouse, civil partner or de facto partner of the sponsor

8.1 For the purpose of this Scheme, elderly parents are those who have attained the age required for eligibility in the State for the non-contributory State pension. As of October 2019 this is 66 years of age but this is subject to change. It should be noted that the sponsor must demonstrate their ability to fulfil their responsibility to provide for elderly dependent parent(s) if they are to be permitted to reside in the State. Even where a sponsor is willing to assume the initial responsibility to provide for such a family member and has the intention to do so, circumstances can change.

8.2 Each case will be viewed on its merits to see if there are circumstances, which warrant a decision to grant permission to reside in the State. A factor which the Department must consider is whether there is a reasonable alternative option of family members leaving the State to care for their elderly dependent parent in their country of residence.

8.3 The issue of dependency referred to in Category 2 of this Scheme in relation to dependent adults will also apply in the case of elderly dependent parents. The onus of proof as to the dependency is on both the sponsor and the applicant. For example, the family must show that:

- there is no viable alternative to the parent coming to the State,
- the parent does not have financial resources to meet their essential needs in their country of origin, or country of residence even with remittances from the sponsor,
- the parent is not physically capable of independent living,
- there are no other family members in the parent's country of residence/origin capable of providing support,



- they can meet the financial thresholds for earnings to support the elderly parent(s) if they come to live in the State.

8.4 Having regard to the potential high level of financial burden on the State with regard to such categories of applicant, in the application process, the following conditions apply:

- Applications can only be made from outside the State for both visa and non-visa required family members. Applications will not be accepted in respect of a person who has come to the State as a visitor and then seeks leave to remain.
- A sponsor will be required to have earned in each of the 3 years preceding the application, an income after tax and deductions of not less than €60,000 per annum in the case of one parent. €75,000 per annum applies where two parents are involved.
- Where the elderly parent has a guaranteed income into the future, this can be used to partially offset the financial limits. However, it will also be taken into consideration that a person with sufficient personal income for their needs cannot reasonably be regarded as financially dependent.
- Elderly dependent parents must be covered by private medical insurance at or above the level which provides for private healthcare in a private hospital.
- The sponsor will be required to sign a legal undertaking to the effect that they will bear complete financial responsibility for the elderly parent and that any State funds availed of by the relative will be reimbursed by the sponsor.
- The sponsor will be required to make detailed provision for the accommodation of the elderly parent.

Grant of permission as an elderly dependent parent of the sponsor or of the spouse, civil partner or de facto partner of the sponsor

8.5 It should be noted that initial permission will be granted for a 12-month period on Stamp 0 conditions. Permissions to reside are regarded as temporary but may be renewed after the first year on a Stamp 0 basis, for a further 2 year period and thereafter on a 3-year basis. This is provided that on renewal, the conditions under which the initial permission was granted continue to be met.

8.6 The granting of temporary permission does not confer any entitlement or legitimate expectation on any other person, whether related to the applicant or not, to enter or remain in the State.

9. CHANGE IN CIRCUMSTANCES

9.1 Immigration permission granted under this Scheme will be dependent on the continued residence status in the State of the UK citizen sponsor.



- 9.2** In cases where the sponsor leaves the State, it would be expected, in the normal course, that the non-EEA national family members residing here with an immigration permission on the basis of their relationship with the sponsor, would also leave the State. **If the family circumstances of the non-EEA nationals concerned changes after the granting of a residence permission under this Scheme, such changes must be notified to the Immigration Service Delivery function of the Department as indicated at 9.3 below.**
- 9.3** The applicant must notify the Department of Justice (Immigration Service Delivery) - Domestic Residence and Permissions Division, Unit 2, 13-14 Burgh Quay, Dublin 2 of any material change in circumstances within 2 weeks of such change in circumstances arising. This includes:
- death of the sponsor,
 - departure from the State of the sponsor,
 - divorce or annulment of a civil partnership,
 - breakdown in de facto relationship.
- 9.4** In such circumstances, the applicant may request permission in writing to reside in the State on an individual and personal basis from the Department in accordance with the procedures and policies in place.
- 9.5** Requests of this nature for permission to reside will be dealt with on a case-by-case basis and may take into consideration a range of factors, including but not limited to
- the length of time the sponsor resided in the State before they died or departed the State,
 - character and conduct of the sponsor,
 - duration of marriage/civil partnership or de facto relationship,
 - any children of the relationship,
 - the length of time the applicant resided in the State,
 - the current relationship status of the applicant,
 - previous and current activities of the applicant, for example, history of employment, self-employment, periods of study, dependency on sponsor or other person or dependency on Irish State support,
 - any other relevant information.
- 9.6** Where a sponsor has died, the circumstances will be considered on their merits sympathetically. As a guideline, an applicant who has resided in the State for the two years prior to the death of a sponsor may be granted permission in their own right. In other circumstances, sufficient time will be allowed to the applicant to make arrangements to return to their country of origin or to seek permission under an alternative immigration pathway in this State.
- 9.7** Where a non-EEA national holds a separate immigration permission within the State for the purpose of study, work, etc., and subsequently becomes the spouse, civil partner



or de facto partner of a UK citizen, a change of status request may be made to the Department of Justice, Immigration Service Delivery - Domestic Residence and Permissions Division, Unit 2, 13-14 Burgh Quay, Dublin 2

- 9.8** In the case of a family member who derives permission from the sponsor and is the victim of domestic violence, such persons may apply for an immigration permission in their own right. Guidelines of this application process are available at:

<http://inis.gov.ie/en/INIS/Victims%20Of%20Domestic%20Violence%20-%20Note%20for%20Web.pdf/Files/Victims%20Of%20Domestic%20Violence%20-%20Note%20for%20Web.pdf>

10. WHAT DOCUMENTS ARE REQUIRED?

- 10.1** An application for Preclearance or a Visa should include a completed application form together with relevant documentation which can be found on the webpage:
<http://www.inis.gov.ie/en/INIS/Pages/Irish%20Visa%20Information>

11. THE APPLICATION PROCESS

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Important: A preclearance letter and visa allow you to travel to Ireland only. These documents do not give you permission to enter the State or stay here. Any person wishing to enter the State, whether visa required or not, is subject to the usual immigration controls at the port of entry. Entry to the State is always at the discretion of an immigration officer.

- 11.1** An application under this Scheme must be made from outside the State and applicants must be ordinarily resident outside of the State at the time of application. Proof of residence outside the State may be requested, and the applicant must remain outside the State while their application is being processed. Individuals already resident in the State on a separate immigration permission should follow the procedure set out at section 9.7. Incomplete applications will be deemed invalid and the applicant notified accordingly.
- 11.2** Applications must be made by following the directions set out on the Department's (Immigration Service Delivery) website. All documentation required, as set out on the webpage, must also be submitted. Further details on documentation requirements may be found on the webpage.
- 11.3** A non-refundable fee of €60 applies to each application under this Scheme. These fees are subject to review and may change. Please check the Department of Justice, Immigration Service Delivery website for latest information.
- 11.4** Applicants must provide a valid email address with their application as all communications in relation to the application from ISD will be by email. Applicants



should monitor their email account as this is the email address to which all updates are sent. You will receive a decision on your application via your account.

Non-EEA nationals requiring an Entry Visa

- 11.5** A non-EEA national who requires an entry visa must apply for a long stay “D” Visa - Join Family (UK National) before travelling to the State.
- 11.6** If an applicant is a visa required national, living in India, China, Hong Kong, Pakistan or Nigeria, biometrics are required to be taken at the time of making the visa application.
- 11.7** Travel to the State as a specified non-EEA national family member of a UK citizen may only be undertaken when an entry visa stating the reason for seeking entry has been entered into their passport. An applicant will not be allowed entry to the State for the purpose of joining their UK family member, if they do not have a ‘Join Family UK national’ visa in their passport.

Non-EEA nationals not requiring an Entry Visa

- 11.8** A specified non-EEA national family member of a UK citizen who does **not** require an entry visa must apply for preclearance from the Department, under this procedure in order to travel to the State
- 11.9** If an application is successful, the applicant will be granted a letter of approval. This letter of approval must be presented to the Immigration Officer at the port of entry on arrival in the State. An applicant will not be permitted entry to the State and/or will not be registered by Immigration Service Delivery/Garda National Immigration Bureau (GNIB), without prior approval obtained under this procedure before travel to the State.

12. REGISTRATION IN THE STATE

Registration with the Department of Justice (Immigration Service Delivery) Registration Office /Garda National Immigration Bureau (GNIB) (applicable to both visa required and non -visa required nationals)

- 12.1** All non EEA nationals, excluding UK nationals, remaining in the State for more than 90 consecutive days must register with the Department of Justice (Immigration Service Delivery) Registration Office or GNIB and be issued with a Certificate of Registration (IRP card). Please note a registration fee of €300 currently applies.
- 12.2** An Irish Residence Permit (IRP card) will be granted for an initial 12-month period. An application to renew this permission can be made directly to the applicants Local Registration Office. This permission may be renewed by an Immigration Officer initially for a two year period and thereafter for periods of three years. Renewal of permission is subject to the sponsor and applicant continuing to fulfil the qualifying criteria for the Scheme.



12.3 In deciding whether an applicant continues to meet the qualifying criteria for this Scheme, an Immigration Officer will have regard to the following:

- i. conduct of the sponsor and the applicant, including whether the sponsor / applicant has come to the adverse attention of An Garda Síochána or the immigration authorities,
- ii. capacity of the sponsor to continue to support the family member financially for the duration of their proposed stay in the State,
- iii. closeness and genuineness of the relationship between the sponsor and non-EEA national family member, and
- iv. continued residence by both the sponsor and applicant in the State.

12.4 In determining the capacity of the sponsor to continue to support the applicant, the following documents must be presented to the Immigration Officer:

- i. by the sponsor, evidence of continuous residence in the State, a statement of benefits from DEASP, an Employment Detail Summary, and, in the case of a sponsor whose annual income is less than the level specified in sections 4.5 and 4.6, evidence of means,
- ii. by the applicant, evidence of continuous residence in the State and a statement of benefits from DEASP.

12.5 The applicant must also provide evidence of continuing health insurance of a level acceptable for this Scheme.

12.6 An Immigration Officer may refuse to issue a renewal of permission under this Scheme if he or she is of the opinion that

- i. the sponsor or applicant do not continue to fulfil the criteria for this Scheme, or
- ii. the sponsor and applicant are not continuously resident in the State,

12.7 An Immigration Officer may refuse to renew a permission granted under this Scheme on the grounds set out in section 13.1.

12.8 If an application for renewal is refused, the applicant may appeal the decision of the Immigration Officer to the Minister.

13. THE UNSUCCESSFUL APPLICANT

13.1 It should be noted that where an application under this Scheme is refused, reasons will be given for any refusal. A refusal, for example, may be based on one or more of the following grounds (amongst others).

- a. Public policy, public security or public health;



- b. An application is submitted with the intention of circumventing the immigration arrangements of the State, of any other State, or with the intention of undermining the Common Travel Area.
- c. Financial criteria (including failure to meet the income levels specified or uncertainty of future income);
- d. Any commitments entered into by the family member or sponsor might not be met;
- e. Previous immigration history of the family member or sponsor where this is considered on reasonable grounds to be relevant;
- f. Inadequate or inconsistent information;
- g. False documents or deception;
- h. Failure to establish that special circumstances exist that would warrant an exception;
- i. Failure to establish the existence, durability or closeness of relationship (this condition may also apply where the family has voluntarily separated itself).

13.2 In relation to the matters referred to at paragraph 13.1, note that:

- i. A person can be refused on grounds of public security if they pose a threat to the State, or another State, through terrorism or support for terrorist activities, if they pose a threat of incitement to hatred, if they pose a risk of criminal behaviour, or of violence against one or more persons. A criminal record will not automatically exclude a person from consideration for family reunification, but it is highly influential in any consideration of the merits of the individual case.
- ii. Public policy is a broader term and encompasses issues such as the economic and social wellbeing of the State. Immigration policy is informed by a wide range of government policies in different areas. Concerns of public policy should inform all immigration decisions, and this applies in the case of family reunification.
- iii. Public health considerations primarily arise in the context of contagious diseases, for instance in the case of a pandemic, or where diseases are subject to the WHO's International Health Regulations.

13.3 Any residence granted through family reunification obtained because of fraud, false information, misrepresentation, or abuse of rights (including through a marriage / relationship of convenience) shall be forfeit and any time spent in the State will not be reckonable for naturalisation or other immigration purposes.

13.4 Any permission suspected of having been obtained through one of the circumstances listed in paragraph 13.3 may be reviewed by the Minister, and further inquiries made. Any refusal to cooperate may lead to a negative inference.



- 13.5** Where an application is made on a fraudulent basis, the Minister may refuse to accept a further application from the person concerned for a specified period.
- 13.6** If an applicant is unhappy with the outcome of his or her application, an appeal may be submitted at no additional cost within 8 weeks from the date of the refusal notification, which should address the specific grounds on which the initial application was refused. No further correspondence will be entered into once an appeal is finalised.
- 13.7** An appeals officer may make further enquiries into any aspect of the application, and any decision to refuse the appeal (by upholding the initial decision) may be based on the original ground(s) for refusal, or on any new grounds, considered to be justified. The applicant will be provided with an opportunity to address, in writing, any new grounds for refusal before a final decision is made.

14. HOW INFORMATION PROVIDED IS USED

- 14.1** The Department treats personal information provided by applicants carefully and will not disclose personal data to third parties except in accordance with the law.
- 14.2** The processing of personal information provided by an applicant or a sponsor in respect of this Scheme will be carried out in compliance with data protection legislation.
- 14.3** In furtherance of an application under this Scheme, all known information and relevant factors including previous immigration history will be taken into account. The Department may:

(i) request further information or documentation, from an applicant or sponsor or from third parties as evidence of the bona fides of an applicant's particular case;

(ii) disclose personal information provided by an applicant or sponsor to third parties for the purpose of establishing the bona fides of the application; and use information provided by third parties in arriving at a decision on the application. Such third parties include, for example, other Government Departments, An Garda Síochána (the Irish national police force), UK immigration authorities, a sponsor (or previous sponsors if applicable) and other organisations or persons referenced by an applicant in their application.

Further information on the Department of Justice data protection policy is available here:

http://www.justice.ie/en/JELR/Department_of_Justice_and_Equality_Data_Protection_Policy.pdf/Files/Department_of_Justice_and_Equality_Data_Protection_Policy.pdf



15. KEY CONTACT DETAILS

ISD Contact details [here](#)

Annex I

Guidelines on Parental Consent in cases of Family Reunification

In order to ensure that family reunification arrangements cannot be used as a means of facilitating child abduction (including in scenarios where one parent seeks to remove the child from the lawful custody of the other) it must be clearly established that both parents consent to the movement of their child.

In many cases it is likely that both parents will seek to have the child with them as part of the family unit. However where the parents are divorced, separated or do not have a relationship as a couple and where one parent is seeking to bring the child to Ireland as part of a family unit, the consent of the other parent must be obtained and furnished in support of the application for family reunification.

Where consent is required, a signed original letter of consent must be provided, supported by the passport or identity card of the person concerned for the purposes of signature verification.



There may be cases however where there are some suspicion as to the veracity of the documentation. In such cases it may be made a requirement that the other parent should present themselves at the Irish visa office or embassy/consulate to confirm their consent in person. Where the child is coming from a country where there is no Irish representation it should be a requirement that the parents present themselves to the foreign ministry of their own country to have the consent verified.

Where the consent of the other parent is not required for any of the following reasons

- Death of one parent;
- Mental incapacity;
- Identity of the father of the child is not known;
- Sole custody granted to one parent without visitation rights to the other.

Verified official documentation must be provided to support the dispensing of the requirement for such consent

Annex II

Guidelines on DNA sampling for the purposes of Family Reunification

1. The provision of DNA evidence in support of an application for family reunification may be proposed either by ISD or the applicant.
2. The provision of DNA evidence is not to be a mandatory requirement of an application.
3. If DNA evidence is not supplied, a decision will be based on other evidence of parentage supplied.
4. No negative inference will be drawn merely from the fact that the applicant does not wish to undergo DNA testing.



5. A positive DNA result will, however, be accepted by ISD as proof of natural parentage. However, this would need to be assessed against the question of legal parentage.
6. Applicants will, in most cases, be responsible for the cost of the DNA testing.
7. Testing companies and authorities, and persons supervising, testing and donation of samples, must be approved in advance by ISD but will be strictly independent in the conduct of the testing.